

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue
Implementation and Administration of California
Renewables Portfolio Standard Program.

Rulemaking 11-05-005
(Filed May 5, 2011)

**DECISION GRANTING COMPENSATION TO SUSTAINABLE
CONSERVATION FOR SUBSTANTIAL CONTRIBUTION TO
DECISION 12-05-035**

Claimant: Sustainable Conservation	For contribution to Decision (D.) 12-05-035
Claimed (\$): \$58,903.50¹	Awarded (\$): \$ 49,506.00 (reduced 16%)
Assigned Commissioner: Mark J. Ferron	Assigned ALJ: Regina DeAngelis

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: D.12-05-035 implements various amendments to the Public Utilities Code. The decision adopts, among other things, the Renewable Market Adjusting Tariff/ (ReMAT), a new pricing mechanism for the Commission's Feed-in Tariff program for renewable resources.

B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	July 11, 2011	Correct.
2. Other Specified Date for NOI:	Order Instituting Rulemaking (OIR), at 20: "We permit a party found eligible in R.08-08-009 to remain eligible in this proceeding. The party	Correct. Per Administrative Law Judge (ALJ) Ruling on updated NOI to Claim Intervenor Compensation Filed by Sustainable Conservation, November 10, 2010 at 2,

¹ After reviewing Sustainable Conservation's submitted time sheets, the correct amount Sustainable Conservation claims in this proceeding is \$58,903.50.

	should update its planned participation, potential compensation request, or other relevant information, however, if different than as stated in R.08-08-009.”	Sustainable Conservation was found eligible for intervenor compensation in Rulemaking (R.) 06-05-027. D.09-09-045. Sustainable Conservation was also found eligible in R.08-08-009. D.09-12-039 due to a timely update of NOI information.
3. Date NOI Filed:	June 9, 2011	Correct
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.08-08-009	Correct
6. Date of ALJ ruling:	November 10, 2010	Correct
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:		
10. Date of ALJ ruling:		
11. Based on another CPUC determination (specify):	D.09-09-045, D.09-12-039, D.11-06-036	Correct
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-05-035	Correct
14. Date of Issuance of Final Order or Decision:	May 31, 2012	Correct
15. File date of compensation request:	July 30, 2012	Correct
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION**A. Claimant's claimed contribution to the final decision**

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
<p>1. <u>Prioritize Implementation of SB 32</u>. When the Commission opened R.11-05-005, it asked parties to comment on the order in which it should address the many issues encompassed in the Rulemaking. Sustainable Conservation advocated for the Commission to implement SB 32 immediately.</p> <p>The Commission adopted several tracks for R.11-05-005, and put SB 32 implementation into the first track.</p>	<p>Presentation</p> <p>May 31, 2011 <i>Comments</i>, at 2: "SB 32 became law in October 2009. The Commission, nevertheless, waited until March 2011, <i>18 months</i>, before it even requested briefs from stakeholders on how to best implement SB 32. The Commission has taken no further action since then. This is not only inexcusable; it disrespects the will of the Legislature. Because SB 32 has already been fully briefed, the Commission has a complete record from which it can move quickly. Signing of SB 2 (IX) on April 12, 2011 should not be an excuse to further delay implementation of SB 32. The Commission should focus in the next three months on implementing SB 32.</p> <p>July 21, 2011 <i>Comments</i>, at 11: "...in the context of the tariff, it is probably more efficient to address all issues concurrently."</p> <p>Commission Action</p> <p>An ALJ Ruling, on June 27, 2011 set out a separate track for SB 32 implementation:</p> <p>"Today's ruling sets forth an initial proposal for implementing these amendments with the intention of moving forward expeditiously on this matter. Other issues identified in R.11-05-005 will proceed on a separate track." (at 1)</p>	<p>Sustainable Conservation did contribute to this aspect by encouraging the Commission to prioritize at least some portions of SB 32 implementation. However, per the ALJ Ruling on June 27, 2011, the Commission postponed some SB 32 issues into 2012. Additionally, the claimant's contribution was not unique. Many other parties, including California Solar Energy Industries Association (CALSEIA), Union of Concerned Scientists (UCS), Solar Alliance, and Agricultural Energy Consumers Association (AECA), also urged the Commission to prioritize SB 32 implementation.</p>
<p>2. <u>Environmental compliance costs</u>. Sustainable Conservation has maintained that SB 32 requires the Commission to include environmental compliance costs in</p>	<p>Presentation</p> <p>March 7, 2011 <i>Brief</i>, p. 11:</p> <p>"The Federal Energy Regulatory Commission ("FERC") allows even broader discretion including (but not</p>	<p>Instead, D.12-05-035 at 54 states that "insufficient evidence exists in the record to adopt and implement an adder reflecting the cost</p>

<p>the feed-in tariff price. These costs will vary by renewable technology and perhaps business category. So will the value these different technologies provide. Sustainable Conservation provided references to published reports on environmental compliance costs for agricultural biogas projects.</p> <p>The Commission agreed in D.12-05-035 that it is required to include environmental compliance costs. The Commission agreed that the Renewable Auction Mechanism (RAM), the results of which provide the starting point for ReMAT, does not include specific environmental compliance costs. The Commission added language in the final decision to reflect that further study is needed to determine these costs.</p>	<p>limited to) location benefits, environmental attributes, and baseload power. The Commission will need to develop a record on the costs associated with these items. The costs will vary by technology and perhaps business category (i.e., farm vs. municipal), as will the value different technologies provide. In the case of biogas, value has more than one component including: the reduction in emissions of methane, a potent greenhouse gas, and the ability to operate these facilities in a baseload manner, thereby increasing system reliability.”</p> <p>March 22, 2011 <i>Reply Brief</i>, at 10: “Several parties join Sustainable Conservation in opening briefs in reminding the CPUC that SB 32 requires the market price to include all current and anticipated environmental compliance costs...”</p> <p>November 2, 2011 <i>Comments</i>, at 6-14 discuss pricing at 9-10 focus specifically on environmental compliance costs for biogas.</p> <p>April 9, 2012 <i>Comments on Proposed Decision</i>, at 7: “The Proposed Decision notes that specific environmental compliance costs may not be reflected in the prices that are bid to the RAM, which is the basis for the Re-MAT starting price. The specific example cited is costs for compliance in an air quality management district. This is dismissed, however, by saying no party presented data on those costs. This is disingenuous.”</p> <p>Commission Action D.12-015-035, at 43, acknowledges that the adopted mechanism does not include environmental compliance costs. The final decision was modified from the Proposed Decision to acknowledge this, as indicated below: “<u>We seek</u> to pay generators the price</p>	<p>of environmental compliance under § 399.20(d)(1).”</p> <p>Additionally, the Commission’s decision to analyze the issue further in other proceedings was based on data submitted by County Sanitation District of Los Angeles County and FuelCell Energy. D.12-05-035 at 53 states “Other parties claim they submitted relevant data but we found much of this data to reflect general environmental costs and not, as specified by the statute, the cost of environmental compliance.”</p>
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	<p>needed to build and operate the a <u>renewable</u> generation facility. We do not find, however, that specific costs, such as compliance costs in a particular air quality management district, are necessarily captured by the RAM methodology. No party presented data on such costs. <u>More analysis is needed. We further discuss our proposal for compliance with § 399.20(d)(1) in a separate section.</u></p> <p>D.12-05-035, at 54: “We are mindful of the importance of quantifying this cost and find it essential for the Commission’s compliance with the statute. More analysis and data is required, however, to complete this task. We will prioritize this issue in this proceeding and will resolve this matter.”</p>	
<p>3. <u>Reservation for biomass within the baseload category.</u></p> <p>Sustainable Conservation has supported a reservation of capacity specifically for biogas technology. While the Commission did not designate a specific reservation for biogas, it did allocate capacity under ReMAT into three categories, one of which – baseload – is a category into which biogas projects could bid. Further, the Final Decision was modified to identify how ReMAT might benefit biogas.</p>	<p>Presentation</p> <p>March 7, 2011 <i>Brief</i>, p. 8: “The Commission should reserve within the SB 32 cap a recommended 150 MW of capacity for baseload renewable biomass resources. Within this baseload renewable resource set-aside, the Commission should ensure that various generator categories have the opportunity to participate. These should include agricultural feedstock facilities, municipal waste feedstock facilities, and food processing facilities.”</p> <p>March 22, 2011 <i>Reply Brief</i>, at 9-10: “As noted above, some parties ask the Commission to raise the eligibility under SB 32 to 5 MW. This request comes from parties representing solar technology. Were the Commission to adopt this recommendation, it would create a bias in favor of solar, to the disadvantage of other technologies that are not as widely deployed at this time. The larger sized projects would use up more of the capacity cap, so there would be less capacity available for</p>	<p>Claimant’s contribution is not unique. Other parties, like Green Power Institute (GPI) and AECA offered similar recommendations. (D.12-05-035 at 80.)</p>

	<p>other projects and technologies. And, as noted in opening briefs, the solar industry is already well-developed and financed.</p> <p>This is why Sustainable Conservation advocates that the Commission reserve within the SB 32 cap a recommended 150 MW of capacity for baseload renewable biomass resources. This concept is supported by other parties. Further, within this baseload renewable resource set-aside, the Commission should ensure that various generator categories, i.e., agricultural feedstock, municipal waste feedstock, food processing, have the opportunity to participate.”</p> <p>Commission Action D.12-05-035, pp. 81-82 (as modified from the Proposed Decision): “However, as discussed previously, we <u>seek to support the development of different renewable technologies, and, therefore, we</u> adopt three product types for the within today’s expanded FiT Program and require at least 3 MW in each type....The allocation will remain in the designated product type unless there is no subscription in that type for more than 12 months. Re-MAT also <u>Re-MAT pricing mechanism</u> could benefit bioenergy, <u>biogas, forest biomass,</u> and the other technologies because it allows renewable resources to compete against other similarly-valued renewable resources, rather than the entire renewable market.”</p>	
<p>4. <u>Recognize the value of baseload renewable technologies.</u></p> <p>Sustainable Conservation has been a constant advocate for the Commission to recognize the value of baseload renewable resources, and a diverse renewable resource portfolio. Throughout the proceeding, Sustainable Conservation has analyzed utility</p>	<p>Presentation</p> <p>March 7, 2011 <i>Brief</i>, at 6-7: “The Commission needs to recognize the value baseload biomass generator benefits add, and encourage their deployment. They are not now specifically encouraged by the CPUC.”</p> <p>March 22, 2011 <i>Reply Brief</i>, at 9-10.</p> <p>May 31, 2011 <i>Comments</i>, at 4: “Data</p>	<p>Claimant’s contribution significantly overlapped with other groups advocating for the same interests, such as the Center for Energy Efficiency and Renewable Technologies (CEERT) and AECA. (D.12-05-035 at 51.)</p>

<p>RPS compliance reports as they become available, and presented evidence that demonstrates that under current policies, by 2020 the utilities' RPS portfolios will include very little baseload power; the amount of biogas anticipated in the RPS portfolios hovers around 1% of all RPS power, according to these reports.</p> <p>D.12-05-035 directs that resources be procured in three buckets, one of which is baseload.</p>	<p>submitted by the utilities in their RPS compliance reports on March 1, 2011 should be a wake-up call for policy makers concerned about the diversity in the State's renewable resource portfolio."</p> <p>Commission Action</p> <p>The Final Decision added language not included in the initial Proposed Decision on the benefits of biogas, and specifically mentions Sustainable Conservation, at 51: "In some instances, parties relied on § 399.20(d)(1) to support their position that the Commission adopt an environmental adder or, in some other manner, incorporate into the FiT price a component to reflect specific environmental benefits of different generation technologies. For example, parties representing the biogas industry, including CEERT, AECA, Sustainable Conservation and others discussed the value of the reduction in emission of methane. Similarly, parties, including Placer County and others, representing the forest biomass industry explained the value of reduced air emissions from wildfires, mitigated fire suppression costs, and public safety benefits. We support these renewable generation industries and their potential to contribute to the reduction of greenhouse gas emissions and improve air quality."</p> <p>D.12-05-035, Finding of Fact 10: "A separate price for each of the three product types (baseload, peaking as-available, non-peaking as-available) better captures the value provided by the different technology types."</p>	
<p><u>5. Interconnection.</u></p> <p>Sustainable Conservation has advocated throughout these proceedings on the importance of interconnection for small distributed generation projects, and the need for</p>	<p>Presentation</p> <p>December 21, 2009 letter from Sustainable Conservation to Energy Division staff regarding Renewable Energy Distributed Energy Collaborative: "It typically takes six</p>	<p>Two of the three issues raised by Sustainable Conservation will be addressed in R.11-09-011. The third issue was addressed in</p>

<p>significant reform of the current process. To highlight the importance of this issue, Sustainable Conservation protested utility advice letters that proposed continuing to allow distribution level interconnection under tariffs governed by the Federal government. This advocacy was ultimately summarized in a Petition to Modify D.07-07-027 filed by Sustainable Conservation in July 2011.</p> <p>The Commission has responded by addressing some of the concerns in D.12-05-035 and by opening a new Rulemaking, R.11-09-011.</p>	<p>months to one year to complete the interconnection process. With a quicker process, a customer generator would have their small distributed renewable generation source on line...The delays in the current process can cost hundreds of thousands of dollars in lost revenue from electricity sales” (at 1) “...we have found that the FERC tariff continues to be a deterrent to customers with generation potential.” (at 3)</p> <p>March 7, 2011 <i>Brief</i>, at 12-16. See overall discussion.</p> <p>March 2, 2011 <i>Reply Brief</i>, at 2-9. See overall discussion.</p> <p>Sustainable Conservation and California Farm Bureau Protest to PG&E Advice Letter 3830, May 5, 2011: “This Advice Letter requests revisions to PG&E’s Electric Rule 21 (“Advice Letter”). Concurrent with the Advice Letter, PG&E is proposing other modifications to Rule 21 through different Advice Letters and even CPUC and Federal jurisdictional venues. Additionally, the Commission itself has initiated a process to revise Rule 21 to better accommodate distributed generation. The Commission should withhold making any decision on Advice Letter 3508-E until there is a better understanding of the entire universe of proposed modifications to Rule 21 by PG&E, and others, and their impacts and benefits.”</p> <p>Commission Action</p> <p>D.12-05-035, at 107: “The issues framed by Sustainable Conservation’s petition for modification are addressed in today’s decision or will be addressed in the separate, ongoing rulemaking before the Commission, R.11-09-011. We expect that the first two issues raised by the petition will be addressed, to the extent necessary, in R.11-09-011. Today’s decision</p>	<p>D.12-05-035 and the Commission adopted Sustainable Conservation’s recommendation. (D.12-05-035 at 107.)</p>
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	<p>addresses the third issue raised in the petition. Specifically, today's decision directs the utilities to give generators a choice of which interconnection procedures to use, either the Tariff Rule 21 or the FERC interconnection tariffs."</p> <p>Finding of Fact 42: "Expedited interconnection is critical to the success of the § 399.20 FiT Program and is required by statute."</p> <p>Finding of Fact 46: "The issues framed by Sustainable Conservation's petition for modification are addressed in today's decision or will be addressed in the separate, ongoing rulemaking before the Commission, R.11-09-011."</p>	
<p><u>6. Pricing basis for renewable power.</u> Sustainable Conservation has supported moving to a price that is based on renewable energy, and away from the Market Price Referent (MPR), which is based on the avoided cost of a natural gas power plant.</p> <p>D.12-05-035 adopts the ReMAT, a pricing mechanism that is based on the market for renewable energy, and not the MPR.</p>	<p>Presentation</p> <p>July 21, 2011 <i>Comments</i>, at 5: "In our opinion, there is no benefit in continuing to use the MPR as the basis for setting the tariff rate for the § 399.20 program."</p> <p>July 21, 2011 <i>Comments</i>, at 6: "Our definition of the market price of electricity explicitly recognizes that the marketplace is composed of a variety of types of products and services. Within this definition there is no doubt that technology-specific and/or product-specific tariffs are viable options that are consistent with the new § 399.20(d)"</p> <p>Commission Action - MPR</p> <p>D.12-05-035, Conclusion of Law 3: "Based on the <i>FERC Clarification Order</i>, the Commission can determine a different avoided cost, differentiated for particular sources of energy as long as state law has imposed an obligation on the utility to purchase energy from those sources of energy."</p> <p>Conclusion of Law 10: "Because the MPR does not reflect ongoing changes within the renewable market and, as a result, could potentially result in a</p>	<p>Claimant's contribution was not unique. Several other parties, particularly GPI, but also AECA, CEERT, California Wastewater Climate Change Group (CWCCG), and FuelCell Energy submitted similar comments. (D.12-05-035 at 24-26.)</p>

<p>Sustainable Conservation also advocated that prices be established for specific technologies. The Commission requested parties comment on this specific issue in the July 21, 2011 Comments. The Commission did not adopt Sustainable Conservation's recommendation, instead finding that setting prices by three technology types, rather than specific technologies, satisfies the intent of the Legislature. The language in the Decision leaves open the possibility that the Commission might, at some future time, examine this option. Sustainable Conservation has a different interpretation of various State and Federal laws and policies, and respectfully requests that it not be penalized because the Commission did not adopt in full its recommendation.</p>	<p>price either too low or too high, using the MPR to set § 399.20 FiT Program price fails to achieve our first policy guideline: to “establish a feed-in tariff price based on quantifiable utility avoided costs that will stimulate market demand.””</p> <p>Conclusion of Law 11: “The renewable market is sufficiently robust to serve as a point of reference for establishing a market price for the § 399.20 FiT Program, and, therefore, we decline to adopt a pricing proposal that relies upon the MPR.”</p> <p>Presentation – Technology Specific Price July 21, 2011 <i>Comments</i>, at 6-7. November 2, 2011 <i>Comments</i>, at 11. December 19, 2011 <i>Joint Motion</i>, throughout.</p> <p>Commission Action – Technology-Specific Price In rejecting the proposal for technology-specific pricing, D.12-05-035 was modified from the Proposed Decision as follows: <u>“We seek to create a pricing policy that supports a diversity of technologies. In doing so, we must balance a number of competing interests, and find that, at this time, unique prices for separate technologies is not consistent with state law or the best interest to ratepayers.”</u></p>	
<p><u>7. Preserve excess sales option.</u></p> <p>Sustainable Conservation has long supported the ability of generators to use onsite the electricity they need, and sell any excess to the utility.</p> <p>D.12-05-035 preserves this option.</p>	<p>Presentation</p> <p>February 4, 2009 <i>Pre-Workshop Comments</i>, at 3.</p> <p>4/10/2009 <i>Comments</i>, at 4-7.</p> <p>March 7, 2011 <i>Brief</i>, at 6. “It also is critical, as the Commission implements SB 32, that it retain the “excess sales” option in the current tariff...”</p> <p>April 9, 2012 <i>Comments on Proposed Decision</i>, at 9: “Sustainable</p>	<p>Yes</p>

	<p>Conservation for years has championed the excess sales option. The Proposed Decision rightly maintains this as an option for the feed-in tariff.</p> <p>Commission Action</p> <p>D.12-05-035, COL 44: “the FiT Program should not exclude excess sales.”</p>	
<p>8. <u>Program Complexity.</u></p> <p>Sustainable Conservation expressed concern that the ReMAT as originally proposed provided opportunities for gaming by bidders. Sustainable Conservation also suggested that adjusting prices monthly made the program overly complex, and difficult for potential participants to track prices and determine whether they want to bid.</p> <p>D.12-05-035 allows the utilities to suspend the program if they suspect there has been gaming. The Final Decision also modified the price adjustment so that it occurs every other month, instead of every month.</p>	<p>Presentation</p> <p>August 26, 2011 <i>Reply Comments</i>, at 2: “The program should be easy to access, understand, and implement.”</p> <p>April 9, 2012 <i>Comments on Proposed Decision</i>, at 5: “Setting a price for different renewable technologies, even six or seven technologies, once a year means fewer prices to examine and a tariff that is intuitively simpler to understand than the elaborate pricing scenario proposed. Changing prices potentially every month does not make the tariff easy for small generators to know with certainty what the price will be. Generators will be tracking bids twelve times per year, in some instances across three utilities, for a total of 36 different prices to track. From the perspective of a farmer for whom the opportunity to install a biogas digester is one of myriad business decisions, tracking an annual technology-based price is much easier – and much more likely to occur – than tracking a price that changes monthly.”</p> <p>Commission Action</p> <p>D.12-05-035, Conclusion of Law 25: “A two-month price adjustment for each product type should be adopted. The price may increase or decrease from the prior two month’s price by increasing or decreasing amounts, depending on the subscription results in each product type for each utility.”</p> <p>Conclusion of Law 27: “Utilities should be permitted to file a motion to temporarily suspend the program if</p>	Yes

	<p>evidence of market manipulation or malfunction exists.”</p> <p>Conclusion of Law 28 (as compared against the Proposed Decision): “<u>Utilities should</u> incrementally release a portion of their total program capacity allocation each month <u>two months</u> for a 1224-month period.”</p>	
<p><u>9. Remove SGIP Restriction.</u></p> <p>Sustainable Conservation advocated for removing the restriction on obtaining incentives under the Self-Generation Incentive Program, net metering programs, California Solar Initiative, or other similar programs.</p> <p>D.12-05-035 allows generators that previously received incentives to participate in the FiT after a certain period of time has expired.</p>	<p>Presentation</p> <p>February 4, 2009 <i>Pre-Workshop Comments</i>, at 1-2.</p> <p>March 7, 2011 <i>Brief</i>, at 16. “The Commission should establish a statute of limitations on the refund requirement for those who participated in the Self Generation Incentive Program.”</p> <p>Commission Action</p> <p>D.12-05-035, p. 101: “A generator the previously received incentives under CSI or SGIP can participate in the § 399.20 FiT Program and will owe no refund it if has been online and operational for at least ten years from the date it first received the incentive.”</p> <p>COL 50: “To implement § 399.2(k) requiring refund of CSI and SGIP incentives, a generator that previously received incentives under CSI or SGIP can participate in the § 399.20 FiT Program and will owe no refund it if has been online and operational for at least ten years from the date it first received the incentive.”</p>	<p>Several other parties submitted similar proposals.</p>

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Yes
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Yes
c. If so, provide name of other parties: Agricultural Energy Consumers Association, California Farm Bureau Federation, Green Power Institute, Center for Energy Efficiency and		Correct

Renewable Technologies, Fuel Cell Energy, AgPower, Clean Coalition, California Solar Energy Industries Association (CalSEIA), California Wastewater Climate Change Group.	
<p>d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p> <p>Sustainable Conservation's advocacy has been from the perspective of the environmental benefits of biogas technology, particularly in agricultural and food processing applications. This is a different perspective from other parties that advocate on biogas issues.</p> <p>Sustainable Conservation took a leadership role in coordinating with other parties, particularly with similar positions. Sustainable Conservation organized conference calls, meetings, and joint pleadings among these parties. For joint pleadings, Sustainable Conservation is claiming only the time spent by its staff. Sustainable Conservation also participated in group meetings with CPUC staff and decision makers, to be efficient with the Commission's time and resources. There may have been situations in which the positions of Sustainable Conservation and other parties were similar. Sustainable Conservation attempted through conference calls and advance exchange of pleadings to avoid duplication. In a proceeding as lengthy and far-reaching as this, it is difficult to avoid overlap. In some instances, Sustainable Conservation collaborated with parties and interested entities that did not submit comments themselves, thereby broadening the scope of input the Commission received (i.e., coordination with Farm Bureau, California Bioenergy).</p>	Sustainable Conservation duplicated the efforts of other parties on several issues, particularly issues 2, 3, 4, 5, 6, and 9.

C. Additional Comments on Part II:

#	Claimant	CPUC	Comment
A.	X		Sustainable Conservation's work to implement SB 32 has extended over several years. The Commission first solicited comments from parties on a feed-in tariff in January 2009, in R.08-08-009. This claim includes work performed by Sustainable Conservation in good faith towards developing a revised feed-in tariff. Attachment 1 lists the many pleadings Sustainable Conservation has developed and/or contributed to in this and predecessor proceedings.
A.	X		In the area of interconnection, subsequent to Sustainable Conservation's Petition to Modify D.07-07-027 to address interconnection problems, the Commission opened R.11-09-011, which focuses specifically on interconnection for small renewables. Sustainable Conservation is reserving the majority of the claim it will make related to this OIR, including the time spent preparing the Petition to Modify, for a claim that will be filed in R.11-09-011 at the appropriate time. There is some time claimed here for interconnection because it was not clear until

			<p>R.11-09-011 was opened how the Commission would resolve the issue. Additionally, even after the OIR was opened, the utilities continued to submit advice letters and Petitions to Modify prior decisions related to interconnection, and the Proposed and Final Decision made certain findings about interconnection, as indicated above. This claim therefore includes some time spent on interconnection issues.</p>
A.	X		<p>Sustainable Conservation participated in this and predecessor proceedings in good faith, recommending what the organization recommends as sound public policy. The Commission did not completely agree with Sustainable Conservation on the issues of establishing a technology-based price, instead of the adopted ReMAT mechanism, and creating a capacity reservation for biogas projects. Sustainable Conservation should not be penalized because the Commission did not adopt in full its recommendations on these issues.</p> <p>The standard for an award of intervenor compensation is whether Sustainable Conservation made a substantial contribution to the Commission's decision, not whether Sustainable Conservation prevailed on a particular issue. For example, the Commission recognized that it "may benefit from an intervenor's participation even where the Commission did not adopt any of the intervenor's positions or recommendations." D.08-04-004, in A.06-11-007, at 5-6. In that case TURN's opposition focused on the need for Southern California Edison's contract with Long Beach Generation and the overall cost effectiveness of the resource. The Commission stated that: "The opposition presented by TURN and other intervenors gave us important information regarding all issues that needed to be considered in deciding whether to approve SCE's application. As a result, we were able to fully consider the consequences of adopting or rejecting the LBG PPA. Our ability to thoroughly analyze and consider all aspects of the proposed PPA would not have been possible without TURN's participation." <i>Id.</i>, at 6. On this basis the Commission found that TURN had made a substantial contribution even though its positions had not been adopted, and awarded TURN intervenor compensation for all of the reasonable hours devoted to the proceeding.</p> <p>The Commission reached a similar conclusion in D.09-04-027, awarding intervenor compensation for TURN's efforts in the SCE AMI proceeding (A.07-07-026). There the Commission found TURN to have made a substantial contribution even on issues where TURN did not prevail, as TURN's efforts "contributed to the inclusion of these issues in the Commission's deliberation" and caused the Commission to "add more discussion on the issue, in part to address TURN's comments." (D.09-04-027, page 4.)</p> <p>In the current proceeding, the Commission has stated that it does not choose to follow Sustainable Conservation's pricing proposal at this time. The Commission added language to the Final Decision not present in the Proposed Decision to acknowledge there may be more than one way to set prices for the Feed-in Tariff. D.12-05-035 states, at 33-34: "We seek to create a pricing policy that supports a diversity of</p>

		<p>technologies. In doing so, we must balance a number of competing interests, and find that, at this time, unique prices for separate technologies is not consistent with state law or the best interest to ratepayers.” The Commission also anticipates that it may at a later time modify the pricing mechanism, and modified the Final Decision from the Proposed Decision to preserve flexibility in potential changes. D.12-05-035, at 50: “To the extent that changes to the adjustment mechanism <u>or other aspects of the program</u> are needed to improve the program, the utilities may file a joint advice letter with the Commission seeking specific changes to the mechanism. Alternatively, Commission Staff may propose modifications to the adjustment mechanism through a draft resolution on its own motion for consideration by the Commission.”</p> <p>Similarly, as described above, on the issue of a capacity reservation for biogas, the Final Decision was modified to reflect the Commission’s intention for the three product types in the ReMAT to support the development of different renewable technologies. The Commission should find that Sustainable Conservation’s participation provided significant value to the decision-making process such that a full award of intervenor compensation is warranted.</p>
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation:	CPUC Verified
<p>Sustainable Conservation is the only non-profit environmental organization with a specific focus on the environmental benefits of biogas technology in the agricultural and food processing industries in these proceedings. Sustainable Conservation’s focus on ensuring a diversity of renewable resources in California’s electricity portfolio should provide numerous benefits to ratepayers. Biogas digesters provide baseload renewable power, which assists with peak demand and load management. Installing biogas digesters on farms and food processing facilities throughout California should relieve congestion on distribution lines and reduce the need to construct new transmission. Biogas digesters have the additional benefit of significantly reducing emissions of methane, a powerful greenhouse gas. While the policy and procedural contributions from Sustainable Conservation can be difficult to quantify in monetary terms, we submit that Sustainable Conservation contributed substantially to the adoption of D.12-05-035, over the course of several years as the Commission developed the feed-in tariff policy, as discussed above.</p>	Correct
<p>b. Reasonableness of Hours Claimed. Sustainable Conservation has maintained a high level of participation over many years on the feed-in tariff with minimal staff: one in-house staff person (Allen Dusault through October 2011, Stacey Sullivan since October 2011),</p>	We have reviewed Sustainable Conservation’s hours claimed by

<p>and a regulatory consultant (Jody London). Ms. London has taken the lead in reviewing and summarizing relevant documents and communications, developing written comments, coordinating and consulting with other parties as part of the organization’s development of positions, and setting meetings with CPUC staff and decision makers. Mr. Dusault and then Mr. Sullivan have provided technical review, researched technical issues related to the feed-in tariff and biogas technology, and ensured consistency with Sustainable Conservation’s mission. Mr. Dusault and Mr. Sullivan participated in key conference calls and meetings along with Ms. London to ensure the technical aspects and organizational priorities were fully represented.</p> <p>Sustainable Conservation also retained an attorney, Don Liddell, to advise on certain legal aspects of the proceeding in 2010 and 2011. Mr. Liddell began representing another party (AgPower) in the proceeding in August 2011; Sustainable Conservation is not claiming time for Mr. Liddell’s services to Sustainable Conservation at this time. Sustainable Conservation continued to coordinate with Mr. Liddell in his new capacity.</p> <p>Similarly, this claim does not include time spent by Sustainable Conservation’s Executive Director (Ashley Boren) and Managing Director (Kathy Viatella), even though they have contributed to the development of the organization’s strategy and approach on the complex topic of the feed-in tariff.</p>	<p>task and issue. We deem them reasonable for the most part. However, on issues in which Sustainable Conservation’s contribution was not unique, we have reduced the hours by 20%. (See Section D, Disallowance #1.)</p>																																																																		
<p>c. Allocation of Hours by Issue</p> <p>ISSUE AREAS</p> <p>A Pricing for renewable energy</p> <p>B Preserve Excess Sales</p> <p>C Remove SGIP Restriction</p> <p>D Biogas Reservation</p> <p>E Value of baseload renewable power</p> <p>F Interconnection</p> <p>G Ensure periodic program review</p> <p>H Environmental Compliance Costs</p> <p>I Prioritize SB 32 Implementation</p> <p>J Program Complexity</p> <table><tr><th></th><th>A</th><th>B</th><th>C</th><th>D</th><th>E</th><th>F</th><th>G</th><th>H</th><th>I</th><th>J</th></tr><tr><td>London</td><td>54.7</td><td>5.05</td><td>7.7</td><td>14.1</td><td>26.8</td><td>40.55</td><td>2.4</td><td>11.7</td><td>4.6</td><td>8.1</td></tr><tr><td>Dusault</td><td>12.25</td><td>1.25</td><td>2.85</td><td>3.85</td><td>6</td><td>7.9</td><td>1.2</td><td>0.9</td><td>2.6</td><td>1.6</td></tr><tr><td>Sullivan</td><td>19.2</td><td>0.4</td><td>0.2</td><td>4.1</td><td>8.6</td><td>3.2</td><td>2.4</td><td>11.1</td><td>0</td><td>1.2</td></tr><tr><td>Total</td><td>86.15</td><td>6.7</td><td>10.75</td><td>22.05</td><td>41.4</td><td>51.65</td><td>6</td><td>23.7</td><td>7.2</td><td>10.9</td></tr><tr><td>%</td><td>32.33</td><td>2.51</td><td>4.03</td><td>8.27</td><td>15.53</td><td>19.38</td><td>2.25</td><td>8.89</td><td>2.70</td><td>4.09</td></tr></table>		A	B	C	D	E	F	G	H	I	J	London	54.7	5.05	7.7	14.1	26.8	40.55	2.4	11.7	4.6	8.1	Dusault	12.25	1.25	2.85	3.85	6	7.9	1.2	0.9	2.6	1.6	Sullivan	19.2	0.4	0.2	4.1	8.6	3.2	2.4	11.1	0	1.2	Total	86.15	6.7	10.75	22.05	41.4	51.65	6	23.7	7.2	10.9	%	32.33	2.51	4.03	8.27	15.53	19.38	2.25	8.89	2.70	4.09	
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B. Specific Claim:*

CLAIMED ²						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Allen Dusault	2009	1.5	\$230	D.11-06-036	\$345	1.5	\$230	\$345
Allen Dusault	2010	3	\$230	D.11-06-036	\$690	1.4	\$230	\$322
Allen Dusault	2011	35.9	\$230	D.11-06-036	\$8,257	32.1	\$230	\$7,383
Stacey Sullivan	2011	16.1	\$230	Resolution ALJ-267	\$3,703	11.4	\$230	\$2,622
Stacey Sullivan	2012	34.3	\$230	Resolution ALJ-267	\$7,889	29.6	\$235	\$6,956
Jody London	2009	6	\$190	D.11-06-036, Resolution ALJ-267	\$1,140	5	\$190	\$950
Jody London	2010	4.8	\$190	D.11-06-036, Resolution ALJ-267	\$912	3.2	\$190	\$608
Jody London	2011	131.4	\$200	D.12-07-016	\$26,280	114.7	\$200	\$22,940
Jody London	2012	37.35	\$200	D.12-06-017 ³	\$7,470	24.95	\$205	\$5,114.75
	Subtotal:				\$56,686	Subtotal:		\$47,240.75
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Jody London	2011	1.3	\$100	D.12-07-016	\$130	1.3	\$100	\$130
Jody London	2012	11.1	\$100	D.12-07-016	\$1,110	11.1	\$102.50	\$1,137.75
Allen Dusault	2011	0.5	\$ 115	D.11-06-036	\$57.50	0.5	\$115	\$57.50
Stacey Sullivan	2012	8	\$ 115	Resolution ALJ-267	\$920	8	\$117.50	\$940
	Subtotal:				\$2,217.50	Subtotal:		\$2,265.25

² This table reflects edits by the Commission to the information provided by Sustainable Conservation and contained in the yearly rate table. We direct Sustainable Conservation in future claims to not combine years for the same individual in one line. The proper format for completing this table is to list each individual and the amount of hours they completed on the proceeding each year.

³ This decision number is incorrectly cited throughout. The correct decision number is D.12-07-016.

COSTS					
#	Item	Detail	Amount	Amount	
Subtotal:				Subtotal:	
TOTAL REQUEST:			\$58,903.50	TOTAL AWARD:	\$49,506
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate</p>					
Attorney		Date Admitted to CA BAR ⁴	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation	
(James) Stacey Sullivan ⁵		June 13, 1996	182733	No; please note from January 1, 2004 until February 1, 2008 and January 3, 2011 until January 11, 2012 Mr. Sullivan was an inactive member of the California Bar.	

C. Sustainable Conservation's Comments and on Part III:

Comment #	Description/Comment
1	Attachment 1: List of Pleadings
2	Attachment 2: Time Records
Comment 1	Sustainable Conservation is not claiming any costs in this request. This is due to the ability to file and serve comments and other documents electronically using the Commission's E-file system; postage costs were minimal and are not included in this claim. Sustainable Conservation has used electronic mail communication and conference calls to reduce the cost of meetings, and similarly is not including those costs in this claim. Sustainable Conservation has relied on Ms. London for much of the work usually performed by an attorney, further reducing costs. Sustainable Conservation has been fiscally prudent.
Comment 2	Rationale for Jody London's hour rates. Sustainable Conservation requests an hourly rate of \$190 for Jody London for work performed in 2009 and 2010. This is the rate

⁴ This information may be obtained at: <http://www.calbar.ca.gov>.

⁵ Although Sustainable Conservation specifies they do not employ Mr. Sullivan as an attorney, it is appropriate to list Mr. Sullivan's California Bar License information for records purposes.

	approved for her in D.11-06-036. Resolution ALJ-247 authorized rates ranging from \$155 - \$390 for experts with 13 or more years experience. In March of 2011, Resolution ALJ-267 continued this previously adopted policy. D.12-06-017 grants an hourly rate for Ms. London of \$200. Ms. London has over 21 years experience in the energy industry. Her work in this proceeding has frequently been in lieu of work that would otherwise be performed by an attorney with equivalent experience, at a significantly higher rate (\$300-\$535). Therefore the requested rate for Ms. London is reasonable.
Comment 3	Rationale for Allen Dusault's hourly rates. Sustainable Conservation requests an hourly rate of \$ 230 for Mr. Dusault. This is the rate approved for him in D.11-06-036. During this proceeding, Dusault managed Sustainable Conservation's Sustainable Agriculture program. He has nearly 25 years' experience in water quality issues, waste management, transportation, agriculture and energy generation that spans the public, private and non-profit sectors.
Comment 4	<p>Rationale for Stacey Sullivan's hourly rates. This is the first claim Sustainable Conservation has submitted for Mr. Sullivan. Sustainable Conservation requests an hourly rate of \$230 for Mr. Sullivan. Sullivan directs Sustainable Conservation's public policy program, and has assumed the responsibilities for CPUC-related matters previously performed by Allen Dusault. Prior to joining Sustainable Conservation in 2009, Sullivan spent 12 years as a committee consultant to the California State Assembly. After stints as a consultant to the Natural Resources Committee and Budget Subcommittee #3 (Resources), he served for eight years as Chief Consultant to the Local Government Committee. His work while with the Assembly included in-depth involvement in significant legislation and policy initiatives concerning the California Environmental Quality Act, water policy, sustainable agriculture, housing and land use planning. Sullivan was educated at the University of California, Santa Cruz, University of Oxford, and King Hall School of Law at the University of California, Davis. Sullivan is an active member of the California State Bar, and, while not employed as an attorney by sustainable Conservation, he draws extensively on his legal training in this work before the CPUC.</p> <p>This rate requested for Mr. Sullivan is the same rate approved for his predecessor within the organization, as discussed above. The range of rates for lawyers with 13+ years experience approved in Resolution ALJ-267 is \$300-\$535; the approved range of rates for experts with 13+ years experience is \$155 - \$390. The rate requested for Mr. Sullivan is reasonable.</p>

D. CPUC Disallowances & Adjustments:

#	Reason
1. Disallowance for duplication of efforts on certain issues.	<p>Hours spent on issues 2 (environmental compliance costs), 3 (biogas reservation), 4 (value of baseload renewable power), 5 (interconnection), 6 (pricing for renewable energy), and 9 (remove SGIP Restriction) are reduced by the following amounts for duplication of efforts.</p> <p>Disallowances:</p> <p>Jody London: 1 hour in 2009; 1 hour in 2010; 15 hours in 2011; and 10 hours in 2012.</p> <p>Allen Dusault: 1 hour in 2010 and 3 hours in 2011.</p> <p>Stacey Sullivan: 3 hours in 2011 and 4 hours in 2012.</p>

2. Disallowance for failure to make a substantial contribution.	<p>Sustainable conservation also listed hours for time spent on ensuring periodic program review. However, this issue was not discussed in Part II, so the hours corresponding to this issue are disallowed. The following disallowances are applied:</p> <p>Jody London: 0.6 hours in 2010; 1.7 hours in 2011; and 2.4 hours in 2012.</p> <p>Allen Dusault: 0.4 hours in 2010 and 0.8 hours in 2011.</p> <p>Stacey Sullivan: 1.7 hours in 2011 and 0.7 in 2012.</p>
3. Adoption of Mr. Sullivan's hourly rate(s).	After reviewing Mr. Sullivan's credentials, the Commission awards Mr. Sullivan an hourly rate of \$230 for work completed in 2011.
4. Increase in 2012 hourly rates.	Pursuant to Resolution ALJ-281, 2012 hourly rates have been raised to reflect the 2.2% Cost-of-Living Adjustment.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

1. Sustainable Conservation has made a substantial contribution to Decision12-05-035.
2. The requested hourly rates for Sustainable Conservation's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$49,506.00.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Sustainable Conservation is awarded \$49,506.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall pay Sustainable Conservation their respective shares of the award, based on their California-jurisdictional electric revenues for the 2011 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H. 15, beginning October 14, 2012, the 75th day after the filing of Sustainable Conservation's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at Redding, California.

APPENDIX
Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1205035		
Proceeding(s):	R1105005		
Author:	ALJ Regina DeAngelis		
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Sustainable Conservation	7/30/12	\$58,903.50	\$49,506.00	No	Disallowance for duplication of efforts; Disallowance for failure to make a substantial contribution; Resolution ALJ 281.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Allen	Dusault	Expert	Sustainable Conservation	\$230	2009	\$230
Allen	Dusault	Expert	Sustainable Conservation	\$230	2010	\$230
Allen	Dusault	Expert	Sustainable Conservation	\$230	2011	\$230
Stacey	Sullivan	Expert	Sustainable Conservation	\$230	2011	\$230
Stacey	Sullivan	Expert	Sustainable Conservation	\$230	2012	\$235
Jody	London	Expert	Sustainable Conservation	\$190	2009	\$190
Jody	London	Expert	Sustainable Conservation	\$190	2010	\$190
Jody	London	Expert	Sustainable Conservation	\$200	2011	\$200
Jody	London	Expert	Sustainable Conservation	\$200	2012	\$205

(END OF APPENDIX)